

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE NO. 3:06-CR-92-PLR
	)	
PHILLIP A. APODACA	)	

**MEMORANDUM AND ORDER**

This matter is before the court on the defendant's motion for sentence reduction pursuant to Amendment 782 to the United States Sentencing Guidelines [R. 339]. The government has responded deferring to the court's discretion whether and to what extent to reduce defendant's sentence [R. 340]. The United States Probation Office has provided the court with a memorandum regarding retroactivity of Amendment 782. The defendant is presently scheduled for release on December 30, 2016.

The defendant was convicted of conspiring to distribute and possess with intent to distribute more than 1,000 kilograms of marijuana, in violation of 21 U.S.C. §§ 846, 841(a)(1) and (b)(1)(A), and money laundering, in violation of 18 U.S.C. § 1956(h). At sentencing, defendant's base offense level was 37, with a criminal history category IV, resulting in an advisory guideline range of 295 - 365 months. Before sentencing, the government filed a motion for downward departure in light of defendant's substantial

assistance. Defendant was sentenced on April 27, 2009, to 144 months imprisonment (51% reduction).

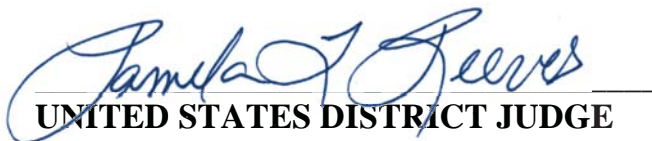
Amendment 782 reduces the guideline range applicable to defendant. Pursuant to Amendment 782, defendant's base offense level is 35, with a criminal history category IV, resulting in an amended guideline range of 235 - 293 months. Giving defendant a comparable adjustment, and taking into account the policy statements set forth at USSG § 1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), it is hereby ORDERED that the defendant's motion [R. 339] is GRANTED, and the defendant's sentence is **reduced to 115 months**.

If this sentence is less than the amount of time the defendant has already served, the sentence is reduced to a "time served" sentence. *See* USSG § 1B1.10(b)(2)(C).

Except as provided above, all provisions of the judgment dated April 27, 2009, shall remain in effect. **The effective date of this order is November 2, 2015.** *See* USSG § 1B1.10(e)(1).

**IT IS SO ORDERED.**

Enter:

  
UNITED STATES DISTRICT JUDGE